Minutes
Air Pollution Control Board
Indiana Government Center South
Conference Rooms 1&2
402 West Washington Street
Indianapolis, Indiana

August 2, 2000
1:00 p.m.

1. Mr. John Walker, Chairman, called the meeting to order. He noted that a quorum was present. **CALL TO ORDER QUORUM**

2. Chairman Walker introduced the board members. **INTRODUCTION OF MEMBERS**

Present:
Mr. John Walker, Chairman
Mr. Thomas Anderson
Dr. James Miner, M.D.
Ms. Melanie Darke, Proxy, Lieutenant Governor
Mr. John Bacone, Proxy, Department of Natural Resources
Mr. Howard Cundiff, Proxy, State Board of Health
Mr. Randy Staley
Mr. Marlow Harmon
Mr. Chris Horn
Mr. Jeff Bowe
Dr. Phil Stevens, General Public

Chairman Walker welcomed new board member, Dr. Phil Stevens, representing the General Public, to his first air pollution control board meeting.

Staff members present were Ms. Janet McCabe, Assistant Commissioner, Ms. Kathy Watson, Branch Chief, and Mr. Timothy Method, Deputy Commissioner. Others present are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. McCabe reported that a tour of a utility plant would take place prior to the September 6, 2000 board meeting that will be held in Terre Haute, at the Performing Arts Room at the Student **REPORTS**

Union, Rose Hulman Institute. Amoco and Envirotest have agreed to sponsor a free gas cap program for those people who have failed the gas cap part of the emissions test in Northwest Indiana. The Office of Air Management has created a brochure entitled "Get The Facts on Lead-Based Paint" to answer questions concerning lead-based paint in homes and facilities where children are present. Because lead-based paint creates serious health and environmental issues, the brochure will explain some specific federal requirements for abatement of lead based paint in child occupied facilities.

Mr. Method reported on the process of the rule readoption rulemaking. He explained that state law requires that all state agencies go through a process of readoption of all administrative rules every seven years, and that IDEM has initiated the readoption process for its administrative rules.

Nonrule Policy Document Air-025-NPD, Accepted Documented Methodologies for the Lead-Based Paint Program

4. Chairman Walker introduced Nonrule Policy Document Air-025-NPD, Accepted Documented Methodologies for the Lead-Based Paint Program, into the record of the hearing.

Ms. McCabe reported that the nonrule policy document clarifies one element of the lead-based paint rule. Documented methodologies means methodologies promulgated by U.S. EPA.

PUBLIC HEARING FOR PRELIMINARY ADOPTION OF AMENDMENTS TO Rule 326 IAC 2-2, PSD General Fixups

5. Chairman Walker introduced Exhibit 1, draft rule 326 IAC 2-2, PSD General Fixups, into the record of the hearing.

Mr. Paul Dubenetsky, Chief of the Air Permits Branch, stated that the purpose of the rulemaking is to have the PSD rules approvable as part of the State Implementation Plan. The existing rule has been amended to be consistent with the federal PSD rules. Changes addressed in this rulemaking include: the Wisconsin Electric Power Company decision that required U.S. EPA to treat emission changes on an actual to past actual, future actual basis for electric utilities; exemptions for both construction or removing a Clean Coal Demonstration Project; inclusion of special provisions for Class I areas; clarification of the term "commence construction so that it's clear that the only thing that's prohibited prior to obtaining a permit is beginning actual construction; clarification of existing state rules with respect to all pollutants regulated under PSD to state that future compounds regulated under Section 112 are not to be considered regulated under PSD; addition of a provision to 326 IAC 2-2-8 that corresponds to the federal provision at 40 CFR 52.21 r 4, which says that if a source constructs and takes a limit to stay a minor source or a minor modification to stay out of PSD then any future relaxation of that limit means they do not get treated under the test for

emissions increases and decreases. Any relaxation means they have to go through PSD. There are three provisions in our existing PSD rule that we recommend to remain different: 1) in the definition of major source, we include levels for lead for different types of stationary sources. That's not included in the federal PSD program but is an approved part of the state implementation plan for lead. To address any future lead plants, we took the same criteria that EPA requires us to use to look at existing sources, and said any new source of lead above these thresholds in certain categories is going to be subject to the state PSD program which means they have to put on best available control technology regardless of air quality impact. Also, sources must demonstrate that they aren't going to contribute to a violation of the national ambient air quality standard. 2) Indiana has always had a provision that limits the amount of increment that a source can impact to 80 percent of the available increase. 3) The treatment of a list of hazardous air pollutants that are included in Indiana's definition of "significant increase". The pollutants of concern here are: asbestos, beryllium, vinyl chloride and mercury. Additionally, Mr. Dubenetsky explained that if someone has approval to do a Clean Coal Demonstration Project for a period of years and then for some reason decides to discontinue it, the emissions increase from discontinuing what was intended to be a short-term project would trigger PSD.

Mr. John Blair, representing Valley Watch, Evansville, Indiana, commented on the rulemaking by expressing his concerns to protect the public health and environment of the lower Ohio Valley. Mr. Blair expressed his concerns regarding Clean Coal Technology, the PSD permit process, and the use of the RPM IV model for air quality analysis. Mr. Blair also commented on "ozone depleting substances".

Mr. Bernie Paul, representing Eli Lilly, commented on the rulemaking by expressing concerns in regards to the use of exact federal wording, terms and definitions of the PSD rule. The terms that Mr. Paul commented on include "federally" before "enforceable"and the court action that struck it down; the definition of "major stationary source" and the inclusion and meaning of "chemical process plants"; the threshold for mercury, beryllium, vinyl chloride and asbestos in the definition of "significant" and the threshold for ozone depleting substances in the definition of "significant."

Ms. Miriam Dant, Baker & Daniels, representing G.E. Plastics, endorsed the support of the comments made by Mr. Bernie Paul.

Mr. Tom Nelter, Executive Director, Improving Kids' Environment, stated his support of IDEM's definition of "significant", and also his support of keeping the provisions regarding beryllium, asbestos, vinyl chloride and mercury in the rule.

Mr. Andy Knott, Hoosier Environmental Council, expressed his support of keeping the limit on the increment at 80%, and keeping IDEM's definition of "significant" thereby keeping asbestos, berylluim, mercury and vinyl chloride in the rule. Mr. Knott also expressed his concerns

regarding mercury and distributed a Hoosier Environmental Council report that focused on the mercury problem specifically from power plants in Indiana.

Mr. Steve Loeschner, New Haven, Indiana citizen, concurred with earlier comments regarding the mercury rule and requested that the rule be amended down to 50 pounds per year rather than 0.1 ton per year. He commented on the term "clean" when used before "coal". He also commented on the definition of "fossil fuel fired steam electric plant", and asked to have the definition clarified.

Dr. Miner moved to preliminary adopt the amendments to rule 326 IAC 2-2. Mr. Cundiff seconded. The motion passed unanimously.

6. Chairman Walker introduced Exhibit 2, draft rule 326 IAC 10-0.5-1, 326 IAC 10-2, and 326 IAC 10-1, Nitrogen Oxide Emissions, into the record of the hearing.

PUBLIC HEARING FOR PRELIMINARY ADOPTION OF NEW RULES 326 IAC 10-0.5-1, 326 IAC 10-2, and AMENDMENT OF 326 IAC 10-1, Nitrogen Oxide Emissions

Ms. McCabe stated that the Indiana NOx rule will result in a decrease in NOx emissions of 80,000 tons in Indiana's air by the year 2003. It's taken more than 20 years to bring ozone levels into compliance with federal standards and Indiana has done so in all areas of the state except for four counties: Lake, Porter, Clark and Floyd. This rule is the last piece of the one-hour ozone attainment demonstration for these two areas. The main aspect of the rule would require electric utilities in the state to meet a NOx emission rate of 0.25 lb/million Btu input by the year 2003. The attainment plan, according to the 1990 Clean Air Act, was due to EPA in 1994. As a result of practical difficulties experienced by a number of states in meeting the attainment deadlines due to transported ozone, the states and EPA and others participating in the process came to an agreement that regional reductions of NOx were the appropriate solution. There continues to be disagreement about the level of NOx reduction that is necessary to achieve the one-hour ozone standard. Lake and Porter Counties, which are part of the Chicago NOx area, have a 2007 attainment date. The attainment plan which was originally due in 1994, is due to EPA by December of this year. Clark and Floyd Counties, which was not characterized as severe nonattainment as northwest Indiana, have a proposed attainment deadline of 2003. Ms. McCabe stated that this was a regional pollution problem that requires a regional solution. This has resulted in two federal actions: first, the EPA NOx SIP Call; second the Section 126 petition. These two federal actions require the same remedy and the same deadline, May, 2003. Ms. McCabe summarized the reasons for going ahead with the state rule, which include the obligation to meet the one hour ozone attainment planning requirements in Lake, Porter, Clark and Floyd Counties, as well as to help all ozone maintenance areas. Ms. McCabe then explained the rule in general terms section by section.

Mr. Dan Weiss, Senior Environmental Scientist, commented on behalf of Cinergy Corporation. He stated that Cinergy and other utilities have made significant emissions reductions. The achievement of regional NOx reductions will result in significant emissions reductions, approximately 50%, in Indiana and surrounding states. Mr. Weiss urged the board to recognize the significant reductions and to expand the emissions averaging provisions to allow for multi-state averaging. He said that while IDEM has made changes to the rules that increase the flexibility, especially the compliance extension provisions, these provisions should be enhanced even further. He said that Cinergy supported IDEM's position to not include non-emitting units in the rule. Lastly, he said that if IDEM wishes to encourage greater energy efficiency or support different forms of electrical generation, then it is best done through energy policy and not environmental rules.

Mr. Tony Sullivan, Attorney, Barnes and Thornesburg, commented on behalf of Indiana-Kentucky Electric Corporation (IKEC). Mr. Sullivan stated that IKEC cannot support this rulemaking for the following reasons:

- There is currently no ozone nonattainment problem in Clark and Floyd Counties.
- If, in fact, there was an ozone problem, IKEC is not contributing to the problem.
- The rule requirements are far too expensive and require reductions that greatly exceed the levels that are necessary to address any ozone issues in Indiana.

Further, he stated that the draft rules do not include reasonable provisions to minimize the costs where such costs can be minimized. He stated that the following specific issues have not been addressed:

- IKEC had proposed that the emission limits in the rule should be based on either a specific limit or a percent reduction from 1990 levels, but this was rejected.
- The rule does not provide a useful mechanism for averaging in zero emissions that result when units are out of service and do not have any NO_x emissions.
- The rule does not allow a source to operate under a total NO_x cap that would result in more flexibility with equivalent reductions.
- The early reduction incentives are of no practical use.
- The rule does not exclude units that are subject to a federally approved state implementation plan.

He said that the rulemaking should be tabled at least through the 2000 ozone season to evaluate the impact of current and new federal requirements and whether any continued ozone nonattainment issues exist. After the evaluation, if continued nonattainment issues exist, a rule should be developed to address the specific sources that are contributing to the nonattainment.

Mr. David Long, American Electric Power Service Corporation and Mr. Eric Sims, Indiana-Kentucky Electric Corporation (IKEC), said that for the Indiana monitors the ambient levels of ozone in Clark and Floyd counties have been at the highest level, about 80 percent, this year.

Mr. Long said that IKEC operates two plants in Clark and Floyd counties for one client, the Portsmouth Gas Distribution Plant.

Mr. Mark Shere, said the rule language concerning the exemptions for sources that would be subject to the Section 126 rule or federal implementation plan requirements should be revised to delete the date of May 1, 2003. Although the rule language was meant to prevent conflict, including the May 1, 2003 date could unintentionally defeat the purpose of the exemption. He stated that U.S. EPA would change the compliance date associated with the NO_x SIP call, the exemption may no longer be valid and IDEM might have to come back before the board to correct the situation.

Mr. John Ross, speaking on behalf of NiSource, and Primary Energy, said that IDEM should not require the submittal of compliance plans and schedules as required in 326 IAC 10-2-3(d)(4), 326 IAC 10-2-3(d)(5), 326 IAC 10-2-2(f)(2), and elsewhere because the level of detail that is required is excessive. He expressed concern that if a source does not meet an intermediate deadline, then they may be considered out of compliance. He recommended that IDEM delete these requirements to avoid any confusion. In addition, the required information is highly business sensitive and could be used by other companies to gain an advantage and would not change a source's obligation to comply with the rule. Mr. Ross commended IDEM for including alternative compliance methodologies, especially those allowing compliance with the provisions of the rule based on output-based methods. Using this compliance method allows sources to use energy efficiency improvements to help reduce emissions and achieve compliance with the rule. In addition, by allowing the option for companies to invest in more sustainable generation technologies, IDEM is achieving environmental goals while allowing sources to invest in equipment that provides pollution prevention and future competitiveness for the economy. Because these provisions are new, IDEM should move forward carefully to insure the rule accomplishes the desired goals in a workable manner.

Mr. Jeff Neumeier, commented on behalf of Bethlehem Steel. He said that IDEM should use the draft rules as the NO_x SIP call submittal. IDEM should not continue working on two rulemakings and should submit the current rule to the U.S. EPA to respond to the NOx SIP call. He said that the language in the monitoring section that establishes a threshold for the use of testing and fuel data as an alternative to continuous emissions monitors (CEMs) is too restrictive. Sources that use clean fuels should not have to spend excessive amounts of money for monitoring just because the unit is not below a particular emission threshold. The language should be changed to delete the threshold. Further, he stated that Northwest Indiana does not have an ozone nonattainment problem and that Porter and Lake Counties have not had an ozone exceedance for the past ten years. He said that IDEM should not be requiring further reductions from industrial sources in the area. Ozone data indicates that most of the high ozone readings occur on weekends. This information means that IDEM should be looking at other source categories, such as mobile sources, for further reductions.

Mr. David Long, speaking on behalf of American Electric Power Service Corporation, said that the board should add language to the emissions averaging provisions that would allow interstate trading among units under common ownership or operation because any such provision will allow for cost-effective utilization of resources by entities affected by the rule. The rule language should include provisions for granting credit for a period of time in an averaging plan for units that would be permanently shut down. IDEM has included language that addresses units that may not be operating for a period of time during the ozone control period, but not for a unit that is permanently shut down. IDEM could include language that would give full credit during the first five (5) years after shutdown and then the rate of credit would be ramped down to zero over the next five (5) years. Additionally, the draft rule with the twenty-five hundredths pound per million Btu (0.25 lb/mmBtu) limit for utility boilers is supported as long as it is supplemented with appropriate averaging and trading provisions to maximize flexibility and reflect the regional emission reduction objectives.

Mr. Steve Loeschner, New Haven, Indiana citizen, said that IDEM and the board should make the necessary adjustments or amendments to the rule to conform with the SIP call, so that Indiana can be ahead of the game and be able to comply with the SIP call requirements. Mr. Loeschner said that IC 13-14-8-4 requires that the board shall take into account, "the right of all persons to an environment sufficiently uncontaminated as to not be injurious to human, plant, animal or aquatic life for the reasonable enjoyment of life and property". He noted that there has been a lot of information presented concerning costs and different costs for different levels of control, but not any information concerning health issues. The reduction of air pollution statewide will have profound health benefits, but there is no information about additional health benefits from a more stringent limit. IDEM should adopt a more stringent limit. Additionally, he encouraged IDEM to revise the definition of propane. While people may know what propane is in general terms, more information should be included in the definition. The definition should allow people to know about the quality, chemical makeup, sulfur content, and whether there are any contaminants and their quantity. Lastly, each unit should be required to comply with the emission limits in the rule and the averaging time should be no longer than seventy-two (72) hours.

Mr. Andy Knott, Hoosier Environmental Council, recommended that the board adopt a rule that includes a more stringent fifteen hundredths pound per mmBtu (0.15 lb/mmBtu) limit, a cap on NO_x emissions, and a trading program. He said that IDEM should not delete any language concerning the May 1, 2003 compliance date. Additionally, IDEM should remove any language allowing for emissions averaging, especially statewide averaging. As an alternative, IDEM could allow plant-wide averaging with a seven day averaging period or a more stringent emission limit. Finally, IDEM should encourage energy efficiency in the rule. The best way to carry out this goal is to include a NO_x trading program that establishes a certain percentage of

the NO_x trading budget for use with energy efficiency and renewable energy projects.

Mr. Mike Brown, Chairman of the Indiana Electric Association Policy Committee, and representing the Indiana electric Utility Air Work Group. Mr. Brown said that the exemption section should be revised to exempt sources that ultimately become subject to any rulemaking adopted in response to the NO_x SIP call. It appears that IDEM has addressed this situation with sources that would be subject to federal requirements and it should also be clarified for sources subject to the NO_x SIP call. The rule language concerning the exemptions for sources that would be subject to the Section 126 rule or federal implementation plan requirements should be revised to delete the date of May 1, 2003. Although the rule language was meant to prevent conflict, including the May 1, 2003 date could unintentionally defeat the purpose of the exemption. If U.S. EPA would change the compliance date associated with the NO_x SIP call, the exemption may no longer be valid and IDEM may have to come back before the board to correct the situation. IDEM should include additional language in the rule to allow a company to develop alternative compliance demonstration methodology subject to IDEM approval. The alternative methodology would not change the stringency of the rule, but would provide flexibility. The rule language concerning early reduction credits should be revised to increase the usefulness of these provisions. The rule currently establishes a baseline year of 1999 or 2000 for determining the starting point for reductions. Historically, a sixty-five percent (65%) reduction has been considered approximately equivalent to a twenty-five hundredths pound per mmBtu (0.25 lb/mmBtu) emission rate when taken from 1990 levels. For these provisions to be useful to the majority of utilities, the language should be revised to set 1990 as the baseline season. IDEM should not require the submittal of compliance plans and schedules as required in 326 IAC 10-2-3(d)(4), 326 IAC 10-2-3(d)(5), 326 IAC 10-2-2(f)(2), and elsewhere. The level of detail that is being required is excessive. There is concern that if a source does not meet an intermediate deadline, then they may be considered out of compliance. IDEM should delete these requirements to avoid any confusion. In addition, the required information is highly business sensitive and could be used by other companies to gain an advantage and would not change a source's obligation to comply with the rule.

Mr. John Blair, representing Valley Watch, said that IDEM should remove any language allowing for emissions averaging, especially statewide averaging. As an alternative, IDEM could allow plant-wide averaging with a seven day averaging period or a more stringent emission limit. IDEM should not pursue a rulemaking that is less stringent than the NO_x SIP call. IDEM and the board should make the necessary adjustments or amendments to the rule to conform with the SIP call, so that Indiana can be ahead of the game and be able to comply with the SIP call requirements. It is recommended that the board adopt a rule that includes a more stringent fifteen hundredths pound per mmBtu (0.15 lb/mmBtu) limit, a cap on NO_x emissions, and a trading program. While the current draft rule does achieve some reductions, IDEM should move forward with a rule consistent with the SIP call. Although utilities have voiced concerns about the ability to acquire the needed materials and labor in a short time

frame and the expected costs of the necessary controls, the rule will provide economic benefits as well as air quality benefits. Many new jobs will be created to manufacture and install the necessary controls to comply with the rule.

Ms. Joanne Alexandrovich, Vanderburgh County Ozone Officer, said that the current rules should be rejected because they are insufficient, inconsistent and inadequately justified for their intended purpose. The reasons that the rules should either be amended significantly or rejected follow:

- The rules do not achieve the NO_x reductions required by the U.S. EPA NO_x SIP call.
- It is a waste of time and money to implement inadequate rules and also pursue further reductions in a separate rulemaking.
- The rules do not include an emission limit as stringent as the SIP call and do not include a cap on emissions and could allow for overall emissions to increase.
- No modeling was done to examine emission reductions in the four (4) nonattainment counties.
- IDEM cannot justify the burden of state-wide NO_x controls when Clark and Floyd Counties have failed to reach the volatile organic compound (VOC) emissions target and VOC emissions have increased.
- The rules will not fulfill the requirements of the attainment date extension policy.
- The ozone control period defined in the rule, May through September, is shorter than the ozone season in the two (2) nonattainment areas.

Mr. Cundiff moved to adopt the preliminarily adopted new rules 326 IAC 10-0.5-1, 326 IAC 10-2, and amend rule 326 IAC 10-1. Mr. Horn seconded. The motion passed 10-1. Mr. Anderson opposed the vote.

7. Chairman Walker introduced Exhibit 3, draft rule, 326 IAC 21-1-1, Acid Deposition Control, into the record of the hearing.

PUBLIC HEARING FOR PRELIMINARY ADOPTION OF AMENDMENTS TO RULE 326 IAC 21-1-1, Acid Deposition Control

Ms. McCabe commented on the rulemaking stating that the rule is an update to current acid rain rules and ensures consistency with Federal requirements.

Mr. Anderson moved to preliminary adopt rule 326 IAC 21-1-1. Mr. Staley seconded. The motion passed unanimously.

8. The next meeting will be on September 6, 2000 at 7:00, at the Performing Arts Room at the Student Union, Rose Hulman Institute, 5500 Wabash Avenue, Terre Haute, Indiana. **NEXT MEETING**

9. Chairman Walker adjourned the meeting at 5:30 p.m. **ADJOURNMENT**

John Walker, Chairman

Thomas Rarick, Technical Secretary

These minutes were taken from the August 2, 2000 transcript, and were written on October 13, 2000 by Karol Chuma, Office of Air Management.